

Message Text

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ACTION NEA-11

INFO OCT-01 ISO-00 COME-00 EB-08 OPIC-03 ITC-01 L-03
/027 W

-----032300 011630Z /43

R 010358Z JUN 78
FM AMEMBASSY DACCA
TO SECSTATE WASHDC 9548

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E.O. 11652: N/A
TAGS: EFIN BG
SUBJECT: PHILIP MORRIS COMPENSATION CLAIM

REFS: A. DACCA 3186; B. STATE 129858

1. EMBOFF CALLED ON JOINT SECRETARY, MINISTRY OF INDUSTRIES, DISINVESTMENT AND COMPENSATION CELL, G.S. CHOWDHURY MAY 31 TO DISCUSS PHILIP MORRIS (PM) COMPENSATION CLAIM. DEPUTY SECRETARY RAZAR RAHMAN, WHO HANDLES STAFF WORK ON CTWNLA, ALSO WAS PRESENT.

3. EMBOFF REVIEWED HISTORY OF PM'S CLAIM FOR RECOGNITION OF THE RIGHTS OF THE PM GROUP TO THE K-2 TRADEMARK AND EMPHASIZED PM'S STRONG CONCERN OVER PROTECTING THIS RIGHT. PM'S CLAIM FOR LOSS OF ITS 30 PERCENT BENEFICIAL INTEREST IN ASSETS OF PREMIER TOBACCO INDUSTRIES, LTD IN BANGLADESH WAS ALSO RAISED.

3. CHOWDHURY ASKED IF THE K-2 TRADEMARK WAS OWNED BY PM OR PREMIER. HE ACKNOWLEDGED THAT IF PM COULD ESTABLISH THAT IT WAS THE OWNER OF THE TRADEMARK AND IF PM HAD PROPERLY REGISTERED IT, THEN THE BANGLADESHI COMPANY NOW USING IT HAS NO RIGHT TO DO SO. (PRESUMABLY THE COMPANY WHICH NOW USES THE TRADEMARK IS THE PURCHASER OF THE ASSETS OF DACCA TOBACCO INDUSTRIES, LTD., WHICH WAS FORMERLY OWNED
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BY PREMIER.) CHOWDHURY SAID HE THOUGHT, BUT WAS NOT CERTAIN, THAT A COMPANY COULD REGISTER A TRADEMARK UNDER TRADEMARK REGISTRATION LAWS OF A COUNTRY OR UNDER SOME SYSTEM OF INTERNATIONAL REGISTRATION. HE ASKED HOW PM HAS REGISTERED THE K-2 TRADEMARK. HE MADE IT CLEAR, HOWEVER, THAT IF PREMIER TOBACCO RATHER THAN PM WAS THE RREGISTRANT OF THE TRADEMARK, THE BDG COULD NOT RECOGNIZE

PM'S RIGHT TO IT. BDG REGARDS PREMIER AS A PAKISTANI ENTITY AND TREATS ALL ITS ASSETS IN BANGLADESH AS ABANDONED PROPERTY WHICH VESTED IN THE BDG AFTER INDEPENDENCE.

4. CHOWDHURY ALSO HINTED THAT THERE IS A POSSIBILITY THAT IF THE BANGLADESH COMPANY CURRENTLY USING THE K-2 TRADEMARK HAS NOT REGISTERED IT IN BANGLADESH AND IF PM WISHES TO RESUME SOME KIND OF BUSINESS ACTIVITY IN BANGLADESH UNDER THE K-2 TRADEMARK, THE GOVERNMENT MIGHT RESPOND FAVORABLY.

5. TURNING TO PM'S CLAIM FOR COMPENSATION FOR LOSS OF ITS BENEFICIAL INTEREST IN DACCA TOBACCO INDUSTRIES, LTD., WHICH WAS FILED SEPTEMBER 14, 1976, UNDER PRESIDENT'S ORDERS 27 AND 28, CHOWDHURY SAID SINCE PREMIER WAS A PAKISTANI CORPORATION, DACCA TOBACCO INDUSTRIES, WHICH PREMIER OWNED IN BANGLADESH, WAS CONSIDERED ABANDONED PROPERTY UNDER LAW 216. AT FIRST CHOWDHURY SAID IF PM, NOT PREMIER, HAD FILED THE CLAIM, THE GOVERNMENT MIGHT HAVE TREATED IT DIFFERENTLY. HOWEVER WITH PRODDING FROM HIS DEPUTY RAHMAN, HE WITHDREW THIS QUALIFICATION. HE SAID UNDER BANGLADESH LAW THERE IS NO RIGHT TO COMPENSATION EVEN BY A NON-PAKISTANI ENTITY WHICH HELD SHARES IN A PAKISTANI CORPORATION WHICH OWNED PROPERTY IN THE FORMER EAST PAKISTAN. THUS PM HAS NO RIGHT TO COMPENSATION UNDER BANGLADESHI LAW, NOTWITHSTANDING ITS LIMITED OFFICIAL USE

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30 PERCENT INTEREST IN PREMIER TOBACCO. PRESIDENT'S ORDERS 27 AND 28 ARE DESIGNED TO PROVIDE COMPENSATION FOR INDIVIDUALS AND CORPORATIONS INCORPORATED IN THIRTY COUNTRIES AND THEY ARE THEREFORE NOT AVAILABLE TO PM.

6. ACTION REQUESTED. PLEASE CONVEY THE ABOVE TO PM. IF THEY CAN ESTABLISH THAT THE K-2 TRADEMARK WAS REGISTERED BY PM, AS OPPOSED TO PREMIER, IN PAKISTAN OR BANGLADESH, OR IF PM CLAIMS THE TRADEMARK THROUGH SOME INTERNATIONAL ACT OF REGISTRATION, THEN THE GOVERNMENT MAY CONSIDER RECOGNIZING PM'S RIGHT TO K-2. PM MAY ALSO BE ABLE TO RECOVER THE TRADEMARK, IF IT IS NOT REGISTERED HERE, BY REGISTERING IT IN CONNECTION WITH SOME NEW BUSINESS COMMITMENT IN BANGLADESH.
SCHNEIDER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TOBACCO, CLAIMS, INDUSTRY
Control Number: n/a
Copy: SINGLE
Draft Date: 01 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978DACCA03467
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780229-0894
Format: TEL
From: DACCA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197806108/aaaadpfv.tel
Line Count: 109
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: f7a6c97d-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 DACCA 3186, 78 STATE 129858
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2166341
Secure: OPEN
Status: NATIVE
Subject: PHILIP MORRIS COMPENSATION CLAIM
TAGS: EFIN, BG, US, PRIMIER TOBACCO IND LTD, PHILIP MORRIS
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/f7a6c97d-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014